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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ALEXANDER PODOKSIK-  
EFIMOVICH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-71575

Agency No. A79-155-472

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted November 8, 2005<sup>\*\*</sup>

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Alexander Podoksik-Efimovich, a native and citizen of Russia, petitions pro  
se for review of the Board of Immigration Appeals' ("BIA") order denying his

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<sup>\*</sup> This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-  
3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

motion to reconsider. To the extent we have jurisdiction, it is conferred by 8 U.S.C. §1252. We review the BIA's denial of a motion to reconsider for abuse of discretion, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we dismiss in part and deny in part the petition for review.

To the extent petitioner challenges the substance of the BIA's October 1, 2003 order affirming the immigration judge's order denying his applications for asylum, withholding of removal, and relief under the Convention Against Torture, we lack jurisdiction, because the petitioner did not file a timely petition for review of that order. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1258 (9th Cir.1996).

The BIA acted within its discretion to find that Podoksik's letter to the BIA, which it properly construed as a motion for reconsideration, failed to identify any errors of law or fact that would justify granting relief. *See Iturribarria v. INS*, 321 F.3d 889, 895 (9th Cir. 2003); 8 C.F.R. § 3.2(b)(1).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**